

REMARKS

Claims 61-120 were previously pending in this application. Claims 121-125 have been added. As a result, claims 61-125 are pending for examination with claims 61, 88, 106, 113, and 120 being independent claims. No new matter has been added.

Rejections Under 35 U.S.C. §103

The Office Action rejected claims 61-120 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,434,533, to Fitzgerald (hereinafter Fitzgerald) in view of the Read Article (Paul Read, "Business Brokers Bag Buyers." Journal of Business. Spokane: May 12, 1994, Vol. 9, Iss. 9; Sec. 1. pg. 1) (hereinafter Read). Applicant respectfully submits the following remarks in response, traversing the rejection.

Fitzgerald is directed to a method for processing performance data in a system having a plurality of business entities and a report center. (Col. 3, lines 46-47). The method includes transmitting by the business entities to the report center customer performance data indicative of the operation of the business entities." (Col. 3, lines 50-55). "The method further includes determining price information in accordance with the processed performance data, pricing *a product* by the selected business entity in accordance with the determined price information, and selling the product according to the pricing." (Col. 3, lines 60-65) (emphasis supplied).

Read discloses information regarding how business broker's operate in and around the Spokane area. (Page 2). In particular Read discusses the services typically provided by a business broker: "a valuation of a business, research to determine who the most likely and best-qualified buyers are, compilation of the company's financial statements, and preparation of a detailed marketing package that tells a comprehensive story about the business and its markets." (Page 3). Read also discusses the methodologies employed by business broker *when they reveal the identity* of businesses for sale: "revealing identity ... only to qualified buyers, and only after securing a confidentiality agreement from them" (page 4); "prepar[ing] a teaser package that's given to a large number of potential buyers" that provides "basic information about the company for sale, but nothing that would identify the company." (Page 5). As Read teaches, once buyers are qualified "every bit of information a broker can gather about a company, including its history, assets, location, market nice, employees, customers, and financial statements from the past several years" *is provided* to the qualified buyer. (Page 5). In other words, Read does not

teach or suggest withholding confidential information, as alleged in the Office Action, rather Read teaches precisely the opposite – providing all data to customers, only at a later time to reduce risks associated with *disclosing* confidential information.

Applicant respectfully submits that Fitzgerald and Read, either alone or in combination do not disclose, teach, or suggest all the elements of independent claim 61. Claim 61 recites a computerized method for trading information related to commercial companies via a network. The method comprises the steps of collecting private company information from a user at a first location, the private company information having a confidential data portion, which includes confidential identifying information for a private company that corresponds with the private company information, and an exchange data portion, which is characterized by an absence of confidential identifying information for the private company, transmitting only the exchange data portion to a central location via the network, defining an exchange data set at the central location, updating the exchange data set using the exchange data portion, and determining an output data set from the exchange data set, transmitting the output data set from the central location to the user at the first location via the network, wherein the private company is part of a commercial industry, and the output data set includes statistical averages for the commercial industry.

As the Examiner correctly noted, Fitzgerald fails to disclose, teach or suggest “wherein the private company information includes a confidential data portion ... and the exchange data portion is characterized by an absence of confidential identifying information for the private company.” Office Action p. 3. Applicant respectfully submits that in light of this admission Fitzgerald simply cannot teach or suggest “transmitting only the exchange data portion to a central location via the network,” as recited in claim 61 when Fitzgerald never teaches having an exchange portion in the first instance. Contrary to the allegation in the Office Action, the portion of Fitzgerald cited by the Examiner teaches transmitting *all* data entered by the customer, “the customer 600 then enters Occupancy, ADR, and/or other performance data, which travels to the user interface 200, and in turn is sent to the Combined Database/Report Generator.” (Col. 9, lns 18-21). Thus Fitzgerald cannot teach “transmitting *only* the exchange data portion to a central location via the network,” as is recited in claim 61.

Read fails to cure this deficiency. Read teaches *disclosing the confidential identifying information* of a business for sale to qualified buyers, in the form of “the more comprehensive package.” (Please see Read p. 5). The Office Action asserts that:

[I]n other words there is a confidential portion, including identifying information that is withheld from this first teaser package that is exchanged to potential buyers. A second more detailed package is only then delivered to those potential buyers that show serious and legitimate interest in buying the business. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Fitzgerald to include these steps in order to withhold certain information from the exchange process that could be damaging to the company. (Office Action page 3-4).

Implicit in this reasoning is that the disclosure of the teaser package to buyers translates into providing the teaser package to a central location via a network. Assuming this is correct for the purposes of argument, then disclosure of the more detailed package to the qualified buyers necessarily must also translate into providing the more detailed package to the central location via a network as well. Therefore, contrary to the position articulated in the Office Action, Read actually teaches disclosing confidential information and, therefore, **cannot** teach or suggest “transmitting **only** the exchange data portion to a central location via the network,” as is recited in claim 61.

In short, neither Fitzgerald nor Read discloses “transmitting **only** the exchange data portion to a central location via the network,” as is recited in claim 61. Fitzgerald expressly teaches providing **all** data. Read also teaches providing **all** data, even if Read discloses providing a teaser package generated from all of the previously transmitted data. As a result no combination of Fitzgerald and Read can show “transmitting **only** the exchange data portion to a central location via the network,” as both teach exactly the opposite – providing **all** the data to the central location.

This is a meaningful distinction and reflects a fundamental difference between the claimed invention and the systems in the prior art. According to one aspect of the invention, control over confidential information is maintained by deliberately not providing the confidential information to the central repository at all. A party’s confidential information (i.e., that portion which they are not comfortable transmitting) is not released to the central location, permitting the party providing exchange data to be confident that their confidential information will not be revealed, indeed it simply cannot be revealed. Thus, claim 61 recites that this confidential information is never provided to the central location. Thus, even assuming the central location was compromised, the party providing only exchange data is still protected. This cannot be said

about the business brokers in Read who receive all the relevant information on a particular business.

Maintaining control over your own confidential information makes businesses confident that participation cannot comprise confidential information, and is something that is simply not taught in Fitzgerald or Read. Fitzgerald teaches delivery of all information, and Read requires delivery of all information about a business to a business broker so that they can create “teaser” packages. The act of revealing confidential information, as Read recognizes, causes businesses to be uncomfortable. (Please see e.g. Read, page 4 “[g]et a broker you feel comfortable with”). Ultimately this translates into a reluctance to participate in an information exchange that requires release of confidential information *to anyone*. Read teaches mitigating risks associated with the revelation of confidential information by employing a broker and confidentiality agreements, but does not teach eliminating the risk of revealing confidential information by never providing it to the central location, as is required by claim 61, that is “transmitting *only* the exchange data portion to a central location via the network.”

Thus, because neither Read nor Fitzgerald disclose this limitation, no combination or them could render claim 61 obvious.

Additionally, Applicant respectfully submits that the combination of Fitzgerald and Read is improper. First, Read discloses mental processes performed by business brokers without regard to an information exchange system, to which information is transmitted. There is no suggestion such mental processes performed by business brokers would be adaptable to a computerized method for trading information, thus, one skilled in the art would have no expectation of success in combining Read and Fitzgerald. In addition, Read discloses the activity of a typical business broker “requires that you have an unusual set of skills, including the ability to do financial analysis and market research and to present financing plans to a banker.” (Page 3). There is no teaching or suggestion that the “business entities” of Fitzgerald would have the requisite skills to prepare the two marketing packages discussed in Read, that form the basis of the Examiner’s allegations of obviousness.

Second, Read, does not disclose, teach or suggest providing only exchange data, rather as discussed above, Read teaches providing confidential data to potential buyers once qualified. Assuming the combination proper and feasible, the combination would not result in the invention as claimed. In order to provide the “second more detailed package,” confidential information

would have to be provided, and in the context of the alleged combination to some central repository for distribution to the qualified buyer. Thus, the combination could not teach or suggest the step of “transmitting *only* the exchange data portion to a central location via the network,” as is recited in claim 61.

Third, Fitzgerald teaches away from the proposed combination. Fitzgerald teaches that at the time of filing (five years after the Examiner alleges Read taught that it was obvious to one of skill in the art to withhold confidential information) it was an industry standard to include confidential identifying company information in the reports generated by Fitzgerald. As taught in Fitzgerald, the “industry-standard” “Market Fair Share Report” includes confidential identifying information. (Please see Col. 10 lines 28-31; and Figure 8).

Fourth, Fitzgerald is directed to pricing and selling Time Dependent Inventories; in other words business products/services. In contrast Read is directed to business broker operations performed by business brokers; that is sales of entire businesses, including their products. One skilled in the art would not look to a method for pricing and selling individual products/services to modify the teachings regarding valuation and sale of an entire business.

Applicant respectfully submits that the combination of Fitzgerald and Read does not teach or suggest all the elements of claim 61. Further, that proposed combination is improper, and that even if assumed proper would not result in the invention as claimed.

Accordingly, withdrawal of this rejection is respectfully requested. As claims 62-87, and 121 depend from claim 61, they are allowable for at least the same reasons.

Independent Claim 88

Claim recites a network business method for providing commercial statistical data via a network. The method comprises the steps of collecting commercial data information via a webpage from a user, wherein the commercial data information relates to a private company in an industry, generating a commercial data record from the commercial data information, including a confidential subrecord that identifies the private company and an exchange subrecord, defining a commercial statistical analysis system having an exchange data set, transmitting only the exchange subrecord via a network communication link to the commercial statistical analysis system, updating the exchange data set using the exchange subrecord, generating a commercial statistical data set for the industry using the commercial statistical

analysis system, wherein the commercial statistical data set includes statistical averages for the industry, and transmitting the commercial statistical data set to the user, wherein the commercial statistical data set is configured to protect an identity of the private company from other users with access to the commercial statistical data set.

As the Examiner correctly noted, Fitzgerald does not disclose “a confidential subrecord that identifies a private” nor “wherein the commercial statistical data set is configured to protect an identity of the private company from other users with access to the commercial statistical data set.” (Office Action, page 10). Applicant respectfully submits that in light of the admission Fitzgerald cannot teach or suggest transmitting only the exchange subrecord as alleged. As discussed above Fitzgerald teaches transmitting **all data**. Thus Fitzgerald cannot teach or suggest “transmitting only the exchange subrecord via a network communication link to the commercial statistical analysis system,” as recited in claim 88.

As discussed above Read fails to cure this deficiency. The Examiner alleges that Read teaches withholding private company confidential information, however, Read explicitly discloses providing private company confidential information to qualified buyers in the form of the more detailed package. (Please see page 5). Thus, Read cannot teach or suggest “transmitting **only** the exchange subrecord via a network communication link to the commercial statistical analysis system,” as recited in claim 88.

Further, Applicant respectfully submits the proposed combination is improper. One skilled in the art would not look to Read, which is directed to the valuation and sale of entire businesses, to modify an inventory valuation system disclosed in Fitzgerald. As discussed above, there is no teaching or suggestion that the mental processes performed by the business brokers of Read would be adaptable to system and method of Fitzgerald.

As discussed above, even if the combination were assumed proper, the combination would not result in the invention as claimed. Lastly, Fitzgerald teaches away from the proposed combination, as Fitzgerald teaches it was industry standard at the time of filing to include confidential company identifying information in the reports generated by Fitzgerald.

Accordingly, withdrawal of this rejection is respectfully requested. As claims 89-105, and 122 depend from claim 88, they are allowable for at least the same reasons.

Independent Claim 106

Claim 106 recites ...

As discussed above with respect to independent claim 61, Fitzgerald or Read taken alone or in combination does not disclose, teach or suggest all the elements of claim 106. In particular Fitzgerald or Read taken alone or in combination do not disclose teach or suggest “wherein the commercial statistical data set is defined by a lack of information identifying a source of the exchange subrecord,” as recited in claim 106. Moreover, as discussed above, Applicant submits that the combination of Fitzgerald and Read is improper, even if assumed proper does not teach or suggest the claimed invention, and is taught away from by the explicit disclosures in Fitzgerald.

Accordingly, withdrawal of this rejection is respectfully requested. As claims 107-112 and 123 depend from claim 106, they are allowable for at least the same reasons.

Independent Claim 113

Claim 113 recites ...

As discussed above with respect to independent claim 61, Fitzgerald or Read taken alone or in combination does not disclose, teach or suggest all the elements of claim 113. In particular Fitzgerald or Read taken alone or in combination does not disclose, teach or suggest “transmitting only the exchange subrecord via a network communication link to the commercial statistical analysis system,” as recited in claim 113. Moreover, as discussed above, Applicant submits that the combination of Fitzgerald and Read is improper, even if assumed proper does not teach or suggest the claimed invention, and is taught away from by the explicit disclosures in Fitzgerald.

Accordingly, withdrawal of this rejection is respectfully requested. As claims 114-119 and 124 depend from claim 113, they are allowable for at least the same reasons.

Independent Claim 120

Claim 120 recites ...

As the Examiner correctly noted, Fitzgerald does not disclose, teach or suggest “generating a private company data record from the private company data information, including a confidential subrecord” nor wherein the commercial statistical data set is configured to protect an identity of the private company from other users with access to the commercial statistical data set.” Office Action, page 18. As discussed above with respect to independent claim 61, Fitzgerald or Read taken alone or in combination does not disclose, teach or suggest all the elements of claim 120. In particular Fitzgerald or Read taken alone or in combination does not disclose, teach or suggest “transmitting only the exchange subrecord to the statistical analysis system,” as recited in claim 120. Moreover, as discussed above, Applicant submits that the combination of Fitzgerald and Read is improper, even if assumed proper does not teach or suggest the claimed invention, and is taught away from by the explicit disclosures in Fitzgerald.

Accordingly, withdrawal of this rejection is respectfully requested. As claim 125 depends from claim 120, it is allowable for at least the same reasons

Allegations of Well-known: Claims 69, 71, 72, 92-93

Applicant respectfully disagrees with the Examiner’s allegation of well-known. Applicant respectfully requests that the Examiner provide a reference teaching such knowledge or withdrawn the allegation of well known. (Please see MPEP §2144.03).

Further Applicant respectfully submits that the Examiner’s allegation of what is well-known is unrelated to the recited claim language. For example, Claim 120 requires “storing *the confidential subrecord* at the location of the user.” As admitted by the Examiner Fitzgerald does not disclose a confidential subrecord, thus it is unclear how Fitzgerald could render obvious storage of something it does not disclose.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant’s attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,
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